

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

-----	:	CASE NO. 4:05 CR 0545
UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	<u>ORDER AFFIRMING UNOPPOSED</u>
	:	<u>REPORT AND RECOMMENDATION</u>
-vs-	:	
	:	
ANTHONY J. FAWCETT, et al.,	:	
	:	
Defendants.	:	
-----	:	

UNITED STATES DISTRICT JUDGE LESLEY WELLS

This Court entered judgment against Defendant, Anthony J. Fawcett on 19 October 2009, for conspiracy to cultivate, grow, process, possess, and possess with intent to distribute marijuana, and for felon in possession of firearms and ammunition. 21 U.S.C. § 846; 21 U.S.C. § 922(g)(1). (Docs. 179, 180). Pursuant to the Indictment and Plea Agreement, Anthony Fawcett forfeited his ownership interest in approximately 39 firearms. (Docs. 14, 96).

Anthony Fawcett's brother, Richard J. Fawcett, placed before the Court an Innocent Owner petition, pursuant to 21 U.S.C. § 853(n), seeking to substantiate his

ownership interest in fifteen of the forfeited firearms. (Docs. 123, 127). Richard Fawcett also maintains that “due to his travels out of the State” he was unaware of the seizure until after the expiration of the thirty day publication under § 853(n). (Doc. 127). The government requested a final order of forfeiture. (Doc. 125).

This matter was referred to United States Magistrate Judge Kenneth S. McHargh, pursuant to 28 U.S.C. § 636(b)(1), for the purpose of convening a forfeiture hearing under 21 U.S.C. § 853(n), and rendering a report and recommendation. (“R&R”) (Doc. 185). At the forfeiture hearing, Counsel for Richard Fawcett moved to withdraw the Innocent Owner Motion without prejudice. Magistrate Judge McHargh recommended that the Court permit Richard Fawcett to withdraw the Motion and grant the Government’s Motion for Final Order of Forfeiture. (Doc. 191). No parties objected to the R&R.

Accordingly, this Court affirms the Magistrate Judge’s R&R. This Court grants Richard Fawcett’s request to withdraw his Innocent Owner Motion of Forfeited Property and grants the Government’s Motion for Final Order of Forfeiture.

IT IS SO ORDERED.

/s/Lesley Wells
UNITED STATES DISTRICT JUDGE

Date: 14 April 2010